

APR 28 2004

Submission of Federal Rules Under the Congressional Review Act

☐ President of the Senate

☒ Speaker of the House of Representatives

☐ GAO

AS
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TO 8940

Please fill the circles electronically or with black pen or #2 pencil.

1. Name of Department or Agency

Department of Defense

2. Subdivision or Office

OUSD(AT&L)DPAP(DAR)

3. Rule Title

Contract Period for Task and Delivery Order Contracts

4. Rule Identification Number (RIN) or Other Unique Identifier (if applicable)
DFARS Case 2003-D097

5. Major Rule ☐ Non-major Rule ☒

6. Final Rule ☐ Other ☒ Interim Rule

7. With respect to this rule, did your agency solicit public comments? Yes ☐ No ☒ N/A ☐

8. Priority of Regulation (fill in one)

☒ Economically Significant; or
Significant; or
Substantive, Nonsignificant

☐ Routine and Frequent or
Informational/Administrative/Other
(Do not complete the other side of this form
if filled in above.)

9. Effective Date (if applicable) March 19, 2004 (estimated)

10. Concise Summary of Rule (fill in one or both) attached ☒ stated in rule ☐

Submitted by: Deidre A. Lee (signature)

Name: Deidre A. Lee

Title: Director, Defense Procurement and Acquisition Policy

For Congressional Use Only:

Date Received: _____

Committee of Jurisdiction: _____

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| | Yes | No | N/A |
|--|----------------------------------|----------------------------------|----------------------------------|
| A. With respect to this rule, did your agency prepare an analysis of costs and benefits? | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| B. With respect to this rule, at the final rulemaking stage, did your agency | | | |
| 1. certify that the rule would not have a significant impact on a substantial number of small entities under 5 U.S.C. § 605(b)? | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| 2. prepare a final Regulatory Flexibility Analysis under 5 U.S.C. § 604(a)? | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| C. With respect to this rule, did your agency prepare a written statement under § 202 of the Unfunded Mandates Reform Act of 1995? | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| D. With respect to this rule, did your agency prepare an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA)? | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| E. Does this rule contain a collection of information requiring OMB approval under the Paperwork Reduction Act of 1995? | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| F. Did you discuss any of the following in the preamble to this rule? | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| • E.O. 12612, Federalism | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| • E.O. 12630, Government Actions and Interference with Constitutionally Protected Property Rights | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| • E.O. 12866, Regulatory Planning and Review | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| • E.O. 12875, Enhancing the Intergovernmental Partnership | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| • E.O. 12988, Civil Justice Reform | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| • E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| • Other statutes or executive orders discussed in the preamble concerning the rulemaking process (please specify) | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |

(Billing Code 5001-08-P)

DEPARTMENT OF DEFENSE

48 CFR Parts 216 and 217

[DFARS Case 2003-D097]

Defense Federal Acquisition Regulation Supplement;

Contract Period for Task and Delivery Order Contracts

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 843 of the National Defense Authorization Act for Fiscal Year 2004. Section 843 provides that the contract period of a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a may cover a total period of not more than 5 years.

DATES: Effective date: [Date of publication in Federal Register].

Comment date: Comments on the interim rule should be submitted to the address shown below on or before [60 days after date of publication], to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@osd.mil.

Please cite DFARS Case 2003-D097 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D097.

At the end of the comment period, interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602-0326.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS Subparts 216.5 and 217.2 to implement Section 843 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136). Section 843 amends the general authority for task and delivery order contracts at 10 U.S.C. 2304a to specify that task or delivery order contracts entered into under that section may cover a total period of not more than 5 years. The rule clarifies that the total period includes all options or modifications.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 604. The analysis is summarized as follows: This interim rule applies to all new DoD solicitations for supplies or services that will result in a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a. It may affect businesses interested in submitting offers for such contracts. The impact on small entities is uncertain. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D097.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This action is necessary to implement Section 843 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136), which provides that the contract

period of a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a may cover a total period of not more than 5 years. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 216 and 217

Government procurement.

Michele P. Peterson,

Executive Editor,

Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 216 and 217 are amended as follows:

1. The authority citation for 48 CFR Parts 216 and 217 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 216—TYPES OF CONTRACTS

2. Section 216.501-2 is added to read as follows:

216.501-2 General.

(a) See 217.204(e) for limitations on the period for task order or delivery order contracts awarded by DoD pursuant to 10 U.S.C. 2304a.

PART 217—SPECIAL CONTRACTING METHODS

3. Section 217.204 is added to read as follows:

217.204 Contracts.

(e) Notwithstanding FAR 17.204(e), the period of a task order or delivery order contract, including all options or modifications,

awarded by DoD pursuant to 10 U.S.C. 2304a shall not exceed 5 years.